

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Shirley Dimp

17 CV 08806

Write the full name of each plaintiff.

CV

(Include case number if one has been assigned)

-against-

Do you want a jury trial?

☒ Yes ☐ No

Taconic Correctional Facility

Write the full name of each defendant. The names listed above must be identical to those contained in Section I.

JUDGE ROMÁN

FILED
U.S. DISTRICT COURT
2017 NOV 13 PM 12:18
S.D. OF N.Y.W.P.

EMPLOYMENT DISCRIMINATION COMPLAINT

NOTICE

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

I. PARTIES**A. Plaintiff Information**

Provide the following information for each plaintiff named in the complaint. Attach additional pages if needed.

Shirley A. Dimps
 First Name Middle Initial Last Name

20-31c West Hoshole Parkway South, Tower A
 Street Address

Bronx, New York 10468
 County, City State Zip Code

(317) 641-7250 Shirleydimps93@gmail.com
 Telephone Number Email Address (if available)

B. Defendant Information

To the best of your ability, provide addresses where each defendant may be served. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are the same as those listed in the caption. (Proper defendants under employment discrimination statutes are usually employers, labor organizations, or employment agencies.) Attach additional pages if needed.

Defendant 1: Taconic Correctional Facility
 Name
250 Harris Road
 Address where defendant may be served
Bedford Hills, New York 10507
 County, City State Zip Code

Defendant 2: _____
 Name

 Address where defendant may be served

 County, City State Zip Code

Defendant 3:

Name

Address where defendant may be served

County, City

State

Zip Code

II. PLACE OF EMPLOYMENT

The address at which I was employed or sought employment by the defendant(s) is:

Taconic Correctional Facility

Name

250 Harris Road

Address

Bedford Hills, New York 10507

County, City

State

Zip Code

III. CAUSE OF ACTION**A. Federal Claims**

This employment discrimination lawsuit is brought under (check only the options below that apply in your case):

- ☒ **Title VII of the Civil Rights Act of 1964**, 42 U.S.C. §§ 2000e to 2000e-17, for employment discrimination on the basis of race, color, religion, sex, or national origin

The defendant discriminated against me because of my (check only those that apply and explain);

- ☒ race: African American
- ☒ color: Medium skin (AA)
- ☐ religion: _____
- ☐ sex: _____
- ☐ national origin: _____

- ☒ **42 U.S.C. § 1981**, for intentional employment discrimination on the basis of race

My race is: African American

- ☒ **Age Discrimination in Employment Act of 1967**, 29 U.S.C. §§ 621 to 634, for employment discrimination on the basis of age (40 or older)

I was born in the year: 1954

- ☐ **Rehabilitation Act of 1973**, 29 U.S.C. §§ 701 to 796, for employment discrimination on the basis of a disability by an employer that constitutes a program or activity receiving federal financial assistance

My disability or perceived disability is: _____

- ☒ **Americans with Disabilities Act of 1990**, 42 U.S.C. §§ 12101 to 12213, for employment discrimination on the basis of a disability

My disability or perceived disability is: Hearing losses in both ears.

- ☐ **Family and Medical Leave Act of 1993**, 29 U.S.C. §§ 2601 to 2654, for employment discrimination on the basis of leave for qualified medical or family reasons

B. Other Claims

In addition to my federal claims listed above, I assert claims under:

- ☒ **New York State Human Rights Law**, N.Y. Exec. Law §§ 290 to 297, for employment discrimination on the basis of age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status
- ☒ **New York City Human Rights Law**, N.Y. City Admin. Code §§ 8-101 to 131, for employment discrimination on the basis of actual or perceived age, race, creed, color, national origin, gender, disability, marital status, partnership status, sexual orientation, alienage, citizenship status
- ☒ Other (may include other relevant federal, state, city, or county law):
Retaliation of S.Dimp's request to be accommodated for my disability and perceived protected status.

IV. STATEMENT OF CLAIM

A. Adverse Employment Action

The defendant or defendants in this case took the following adverse employment actions against me (check only those that apply):

- ☐ did not hire me
- ☐ terminated my employment
- ☒ did not promote me
- ☒ did not accommodate my disability
- ☒ provided me with terms and conditions of employment different from those of similar employees
- ☒ retaliated against me
- ☒ harassed me or created a hostile work environment
- ☐ other (specify): _____

B. Facts

State here the facts that support your claim. Attach additional pages if needed. You should explain what actions defendants took (or failed to take) *because of* your protected characteristic, such as your race, disability, age, or religion. Include times and locations, if possible. State whether defendants are continuing to commit these acts against you.

I have a draft of the Complaint from the attorney but can't submit the final copy at this time. SD

As additional support for your claim, you may attach any charge of discrimination that you filed with the U.S. Equal Employment Opportunity Commission, the New York State Division of Human Rights, the New York City Commission on Human Rights, or any other government agency.

V. ADMINISTRATIVE PROCEDURES

For most claims under the federal employment discrimination statutes, before filing a lawsuit, you must first file a charge with the U.S. Equal Employment Opportunity Commission (EEOC) and receive a Notice of Right to Sue.

Did you file a charge of discrimination against the defendant(s) with the EEOC or any other government agency?

☒ Yes (Please attach a copy of the charge to this complaint.)

When did you file your charge? August 3, 2016

☐ No

Have you received a Notice of Right to Sue from the EEOC?

☒ Yes (Please attach a copy of the Notice of Right to Sue.)

What is the date on the Notice? August 16, 2017

When did you receive the Notice? August 21, 2017

☐ No

VI. RELIEF

The relief I want the court to order is (check only those that apply):

☐ direct the defendant to hire me

☐ direct the defendant to re-employ me

☒ direct the defendant to promote me

☐ direct the defendant to reasonably accommodate my religion

☒ direct the defendant to reasonably accommodate my disability

☒ direct the defendant to (specify) (if you believe you are entitled to money damages, explain that here)

Waiting for attorney to finalize the drafted
complaint which has the money damages
on it.

VII. PLAINTIFF'S CERTIFICATION

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I agree to notify the Clerk's Office in writing of any changes to my mailing address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

November 12, 2017
 Dated _____ Plaintiff's Signature Shirley Dimps

Shirley A. Dimps
 First Name Middle Initial Last Name

20-31c West Hoshola Parkway, South (Tower A)
 Street Address

Bronx, New York 10468
 County, City State Zip Code

(347) 641-7250 Shirleydimps93@gmail.com
 Telephone Number Email Address (if available)

I have read the attached Pro Se (Nonprisoner) Consent to Receive Documents Electronically:

☒ Yes ☐ No

If you do consent to receive documents electronically, submit the completed form with your complaint. If you do not consent, please do not attach the form. ~~80~~

November 13, 2017

United States District Court
Southern District of New York

Dear Your Honor:

In letter dated September 8, 2017, I requested EEOC to provide me with a letter of Notice of Rights to sue additional parties but as of this date the EEOC has not provided this letter. At this point, I am proceeding with Taconic Correctional Facility. I feel that NYS Department of Corrections and Community Supervision (DOCCS) is responsible for Taconic C. F. When I was the Local President at Taconic C. F. I was communicating with Taconic C. F. as well as DOCCS to inform ^{them} these of the discriminatory practices in the Facility by way of Grievances, Labor Agendas, Complaints to the Office of Diversity Management and DOCCS/CSEA Conferences. DOCCS was aware or should have been aware of what was going on in this Facility. I feel that DOCCS should be included in this lawsuit just like Taconic C. F. What can be done by the Court, so that, DOCCS can be included into this complaint?

A handwritten signature in black ink, appearing to read "Shirley Dimps", written over a horizontal line.

Shirley Dimps



Shirley Dimps <shirleydimps93@gmail.com>

EEOC Notice of Right to Sue issued 7/17/17

1 message

THOMAS PEREZ <THOMAS.PEREZ@eeoc.gov>

Wed, Sep 20, 2017 at 9:08 AM

To: "shirleydimps93@gmail.com" <shirleydimps93@gmail.com>

Ms. Dimps,

We have received documents indicating that you are requesting a reconsideration of your dismissed charge. We also received your documents stating that you wanted to file against other Respondents. We are in the process of reviewing your requests and will notify you once we complete the review. Please be advised that the issued Notice of Right to sue against the one employer will expire in 90 days of the issue date (7/17/17). A reconsideration of the dismissal does not stop the 90 day time limit on filing the Right to Sue in Federal Court and that date cannot be adjusted by the EEOC. Please ensure that you note the date of the Right to Sue as the 90 day limit to file is soon approaching.

*Thomas Perez**Federal Investigator**Phone : (212) 336-3778**Fax : (212) 336-3790**U.S. EEOC**33 Whitehall Street, 5th Floor**New York, N.Y. 10004*

September 8, 2017

U.S. Equal Employment Opportunity Commission
33 Whitehall Street, 5th Floor
New York, New York 10004-2112

Re: EEOC Charge No. 520-2016-03400 (Shirley Dimps)

Attn: Mr. Kevin J. Berry, District Director
Mr. Alvin Mallette, EEOC Supervisor ✓
Mr. Thomas Perez, Investigator for the initial processing of this case

Dear Sirs:

I am in receipt of your letter dated August 16, 2017 and the Dismissal and Notice of Rights which was dated August 16, 2017 as well. In my complaint, I alleged discrimination in employment pursuant to:

Title VII of the Civil Rights Act of 1964, as codified....
Americans with Disabilities Act of 1990, as codified.....
Age Discrimination in Employment Act of 1967, as codified...
New York State Human Rights Law, N.Y. Exec. Law Section 290 to 297....

I am alleging that I was discrimination against by:

Taconic Correctional Facility (TCF), 250 Harris Road, Bedford Hills, New York 10507

NYS Department of Corrections and Community Supervision (DOCCS), the Harriman State Campus- Building 2, 1220 Washington Avenue, Albany, New York 12226-2050

NYS Department of Civil Service (CS), Empire State Plaza, Albany, New York 12239

Note:

It is important to be mindful that TCF is the Facility under DOCCS is the Department and DOCCS laws, rules and regulations are governed by CS as well as Federal and State which is not limited to. TCF as well as DOCCS are bounded by the "Agreement" with CSEA.

In your letter dated August 16, 2017, EEOC indicated only **Taconic Correctional Facility** as the Respondent for this case. This was incorrect and misleading and should be adjusted to include **NYS Department of Corrections and Community Supervision and NYS Department of Civil Service**. There are three entities in the original complaint. If EEOC has any laws, rules and/or regulations which required it to eliminate entities, please provide me with copies.

EEOC has indicated that "we have examined your charge based upon the information and evidence you submitted." EEOC did not allow me to submit all the information and evidence that I wanted to submit. On December 19, 2016, I mentioned to Mr. Perez that "I have additional information which should be sent to EEOC in reference to this case." On December 22, 2016, Mr. Perez indicated "I will not be the investigator assigned to investigate the charge but I am handling the initial processing." He further indicated that "Please hold on to the information you have until the case is assigned for further action."

I waited for an investigator to be assigned to my case and was checking the online case status on the EEOC website. The status was pending on many occasions. Around or about March or April, 2017, I contacted the in-take line of EEOC to inquire about my case and I requested the name and phone number to Mr. Perez's supervisor because the case was not moving and I wanted to send additional information for the case. Mr. Alvin Mallette indicated in his voice mail dated April 5, 2017 that it may be some miscommunication but he indicated that Mr. Perez indicated that he was waiting for me (S. Dimps) to e-mail him the two additional employees who wanted to file against the same respondent, so that, he could send them some paperwork. Mallette indicated that Mr. Perez indicated that he was not the investigator who would be investigating the charges but he was doing the initial processing. On April 15, 2017, I e-mailed Mr. Perez the information (see e-mail attachments dated April 10, 2017) on the other employees from Taconic C. F.

Mr. Perez claimed not to be my investigator for my case but if he did become my investigator for the case he should have indicated so but he did not. Mr. Perez knew that I had additional information to provide to this case. I was never assigned an investigator nor was I given an opportunity to give EEOC all the information and evidence for this case. In order for EEOC to analyze and conclude a finding during an investigation, it should have had all information and evidence from the charging parties as well as from all respondents. All three Respondents should have been required to submit a Respondent's Position Statement. In my opinion, this investigation was not done in "good faith." I strongly believe that there are violations of Federal and/or State Laws which is not limited to.

I am requesting that EEOC reopen the above case and assign S. Dimps an EEOC investigator to investigate my allegations of discrimination and to allow me an opportunity to submit all the information and evidence I have. I would like all three entities to be charged and to request a Respondent's Position Statement from parties. I would like for EEOC to amend the original complaint to add CSEA and/or CSEA, Inc. due to the failures/neglect to provide "Duty of Fair Representation" for its members. Especially in area of grievances and matter of the "Agreement" between CSEA and the State of New York.

EEOC itself should rescind the Dismissal and Notice of Rights to properly investigate this case in good faith and/or reference it to the EEOC Legal Dept. or to the U.S. Department of Justice for further investigation. It is the responsibility of EEOC to enforce violations of Federal Laws, etc. I am a member of the protective class. I am African Americans. Discriminatory practices has been on-going from 2005 to present.

Mr. Perez is listed as the investigator for the other two employees who filed with EEOC against

Taconic C.F. and DOCCS. They would like an opportunity to submit their information and evidence. The only correspondence these two employees received from EEOC were letters dated July 17, 2017 for Everton Brown (EEOC Charge No. 520-2017-02488) and July 19, 2017 for Bevon Trail (EEOC Charge No. 520-2017-01949) along with the Dismissal and Notice of Rights which were dated the same. They as well would like to have their cases reopened and Dismissal and Notice of Rights rescind and further investigation be done.

In e-mail dated January 8, 2017, Mr. Perez was asked to include Tawanna Gilford into this action but Mr. Perez did not find a charge filed by Ms. Gilford as he indicated at the time. Ms. Gilford worked at Bedford Hills Correctional Facility across the road from Taconic C. F. Bedford Hills C. F. is also under DOCCS. Ms. Gilford did file a EEOC Charge with the number 520-2017-01198. Ms. Gilford received a Dismissal and Notice of Right which was dated July 17, 2017. Ms. Gilford may want to have her case reopened and Dismissal and Notice of Rights rescind and further investigation be done.

I was in your EEOC office at 33 Whitehall Street on Sept. 5, 2017 and you Mr. Alvin Mallette requested a copy of my original complaint which is enclosed.

Please respond to this letter in a timely matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Shirley Dimps", written over a horizontal line.

Shirley Dimps

shirleydimps93@gmail

(347) 641-7250 (My cell phone is off in the day when at work. It will be turned back on at 4:30.)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

New York District Office
33 Whitehall Street, 5th Fl
New York, N.Y. 10004

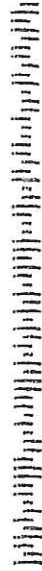
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Shirley A. Dimps
20-31c W. Mosholu Parkway South
Bronx, NY 10468

10468-115513



Rec. 8/21/2017
IN Mailbox

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: **Shirley A. Dimps**
20-31c W. Mosholu Parkway South
Bronx, NY 10468

From: **New York District Office**
33 Whitehall Street
5th Floor
New York, NY 10004



On behalf of person(s) aggrieved whose identity is
 CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

520-2016-03400

Thomas Perez,
Investigator

(212) 336-3778

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:



The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

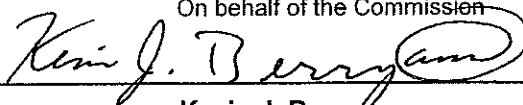
- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission



Kevin J. Berry,
District Director

8-16-17

(Date Mailed)

Enclosures(s)

cc:

Wendy Featherstone
Attn: Superintendent
TACONIC CORRECTIONAL FACILITY
250 Harris Road
Bedford Hills, NY 10507



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
New York District Office

33 Whitehall Street, 5th Floor
New York, NY 10004-2112
For General Information: (800) 669-4000
TTY: (800)-669-6820
District Office: (212) 336-3620
General FAX: (212) 336-3625

Shirley Dimps
20-31 C W. Moshulu Parkway South
Bronx, NY 10468

Re: EEOC Charge No. 520-2016-03400C
Dimps v. Taconic Correctional Facility

Dear Ms. Dimps,

The Equal Employment Opportunity Commission (hereinafter referred to as the "Commission") has reviewed the above-referenced charge according to our charge prioritization procedures. These procedures, which are based on a reallocation of the Commission's staff resources, apply to all open charges in our inventory and call for us to focus our limited resources on those cases that are most likely to result in findings of violations of the laws we enforce.

In accordance with these procedures, we have examined your charge based upon the information and evidence you submitted. You allege you were discriminated against by Taconic Correctional Facility (Respondent") in violation of The Americans with Disabilities act of 1990 (ADA) The Age Discrimination in Employment Act and Title VII of the Civil Rights Act of 1964, as amended.

Based upon the Commission's analysis, it is unable to conclude that further investigation would result in a finding that Respondent violated Federal law. Therefore, the charge will be dismissed. This does not certify that Respondent is in compliance with the statutes. No finding is made as to any other issue that might be construed as having been raised by this charge.

The Commission's processing of this charge has been concluded. **Included with this letter is your Notice of Dismissal and Right to Sue.** Following this dismissal, you may only pursue this matter by filing suit against the Respondent named in the charge within 90 days of receipt of said notice. Otherwise, your right to sue will be lost.

Sincerely,

 for
Kevin J. Berry
District Director

8-16-17
Date